

Amendment No. 2 to HB2381

Sargent
Signature of Sponsor

AMEND Senate Bill No. 2364

House Bill No. 2381*

by deleting all language after the enacting clause and substituting instead the following:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 221, Part 6, is amended by adding the following as a new section:

(a) Effective July 1, 2019, the authority granted pursuant to this part shall not apply to authorities created in any county having a population of not less than three hundred thirty-six thousand four hundred (336,400) nor more than three hundred thirty-six thousand five hundred (336,500), according to the 2010 federal census or any subsequent federal census.

(b) No later than one (1) year prior to the date that the authority granted pursuant to this part ceases to apply, the governing body of the creating governmental entity shall begin winding up the affairs of the authority. All legal and financial obligations of the authority shall be satisfied, closed, transferred, or otherwise assumed to the satisfaction of the comptroller of the treasury and the department of environment and conservation, as provided in subsection (c), prior to the authority ceasing to exist.

(c)

(1) Notwithstanding § 68-221-615, whenever an authority is dissolved pursuant to this section, the county mayor of the creating governmental entity shall wind up the authority's affairs and submit a plan of dissolution to be approved by both the comptroller of the treasury or the comptroller's designee and the department of environment and conservation.

(2) The plan of dissolution shall be approved only if the plan:

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(A) Is determined to be in the public's interest;

(B) Expressly provides for equitable distribution and assumption of all bonds and other obligations of the authority to the creating governmental entity or its lawful designees; and

(C) Contemplates a lawful transfer of assets to eligible local governments or private entities.

(3) Upon receipt of these state approvals, the county mayor of the creating governmental entity shall execute and file for record with the secretary of state a certificate of dissolution reciting such facts and declaring the authority to be dissolved.

(4) Failure to comply with the dissolution proceedings of this section shall cause the department of environment and conservation and the comptroller of the treasury or the comptroller's designee to submit a plan of dissolution on behalf of the authority to the state funding board for approval. The plan shall be enforceable in chancery court, with all costs associated with the dissolution, including, but not limited to, legal costs, to be borne by the authority.

(d) For authorities existing on July 1, 2016, and to which this section applies:

(1)

(A) For fiscal year 2017-2018, such authorities shall submit quarterly progress reports on the plan of dissolution, including all financial

statements, to the comptroller of the treasury or the comptroller's designee; and

(B) Beginning July 1, 2018, such authorities shall submit monthly progress reports on the plan of dissolution, including all financial statements, to the comptroller of the treasury or the comptroller's designee;

(2) The county mayor of the creating governmental entity shall submit a plan of dissolution no later than July 1, 2017; and

(3) Dissolution shall be completed by July 1, 2019.

(e) For purposes of this section, "equitable distribution and assumption" means apportioning debt in a manner consistent with the amount of improvements made to certain areas and the customers that reside in those areas and any excess amount of debt to be refinanced and secured by the full faith and credit and unlimited taxing power of the creating governmental entity.

(f) The authority shall be responsible for any reasonable expenses incurred by the comptroller of the treasury in carrying out this section.

SECTION 2. Tennessee Code Annotated, Section 68-221-607, is amended by adding the following as a new subsection:

(c) Any authority created pursuant to this part may notify the appropriate permitting department when water and wastewater services provided to a business currently permitted pursuant to the Tennessee Retail Food Safety Act, compiled in title 53, chapter 8, part 2, or the Tennessee Food Safety Act, compiled in title 68, chapter 14, part 7, are discontinued for a violation of the authority's rules, regulations, or policies. This subsection (c) shall apply to all counties in which an authority has been created as of July 1, 2016.

SECTION 3. Tennessee Code Annotated, Section 68-221-608, is amended by adding the following new subsections:

(d) The rates, prices, or charges for water, wastewater, and reuse or recycled wastewater may be flat rate, proportional to usage, or a combination thereof.

(e)

(1)

(A) Any person aggrieved by an appealable action of the board, or the board's officers or employees, may appeal the action by filing a written notice of the challenged action stating:

- (i) The action being appealed;
- (ii) The date of the appealed action;
- (iii) The manner in which the person is aggrieved;
- (iv) Each factual or legal basis for the appeal; and
- (v) The relief sought.

(B) A notice of appeal shall be dated and signed by the appellant and shall include the appellant's mailing address and telephone number, and, if available, the appellant's electronic mail address.

(C) A notice of appeal shall be filed with the authority's executive director, or the executive director's designee, within fifteen (15) days immediately following the date of the action being challenged in the notice.

(D) The authority shall establish rules and procedures governing the method for consideration of appeals filed pursuant to this subsection

(e). The authority shall make copies of the rules and procedures available to their customers and post a copy of their rules and procedures at the authority's principal office and on the authority's web site.

(E) The authority shall determine all factual and legal issues raised in an appeal and shall state in writing to the aggrieved person the reasons for its decision.

(2) Any judicial review of the disposition of an appeal shall be by common law certiorari filed in a court of competent jurisdiction in the county where the authority's principal office is located. No change in the authority's fees, rates, charges, penalties, or deposits shall be stayed unless the plaintiff posts an adequate bond sufficient to compensate the authority for any losses incurred as a result of the stay.

(3) As used in this subsection (e), "appealable action"

(A) Means:

(i) An action relating to the authority's duty to establish, charge, administer, and collect fees, rates, charges, penalties, and deposits; and

(ii) Other decisions based on the authority's rules and procedures that the authority designates as appealable actions; and

(B) Does not include any action relating to the issuance of bonds or debt, any civil service plan, or any other action not identified in subdivision (e)(3)(A).

(4) This part shall not authorize or permit any class action lawsuits against any authority, except as to holders of the authority's bonds under § 68-221-611.

(5) This part shall not grant a private right of action, except as to holders of the authority's bonds under § 68-221-611.

(6) The procedures established pursuant to this subsection (e) shall constitute the exclusive method of review of actions of the board and the board's officers and employees, except as to holders of the authority's bonds under § 68-221-611 and employees in a civil service plan under § 68-221-613.

SECTION 4. This act shall take effect July 1, 2016, the public welfare requiring it.